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December 30, 2016

*Via ECF*

The Honorable Paul A. Crotty  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

***Re: Donoghue v. Zivo BioScience, Inc., et al.,  
No. 15-cv-05618-PAC***

Dear Judge Crotty:

We represent Defendant HEP Investments LLC ("HEP") in the above-referenced matter. On December 6, 2016, the Court granted HEP's request, made with Plaintiff's consent, to extend the completion date for fact discovery in this matter from December 20, 2016 to January 20, 2017 (Doc. No. 41). On that same date, the Court also extended the deadline for expert discovery to March 6, 2017 and adjourned the Pretrial Conference to February 1, 2017.

The parties have exchanged a significant amount of documentation, as well as began settlement negotiations and, at this point, feel it would be beneficial to seek the help of a Magistrate Judge with regard to settling the case. Consequently I write on behalf of all parties to jointly request that the this matter be referred for settlement purposes to Magistrate Judge Frank Maas, who was so designated in this matter on July 20, 2015, with the hopes of conferencing with him as soon as possible in the New Year.

I have shared a draft of this letter with counsel for Plaintiff. They consent to its filing and concur in its requests.

Respectfully submitted,

A handwritten signature in blue ink that reads "Richard C. Schoenstein" followed by a stylized monogram or initials.

Richard C. Schoenstein

cc: David Lopez, Esq.  
Miriam D. Tauber, Esq.